

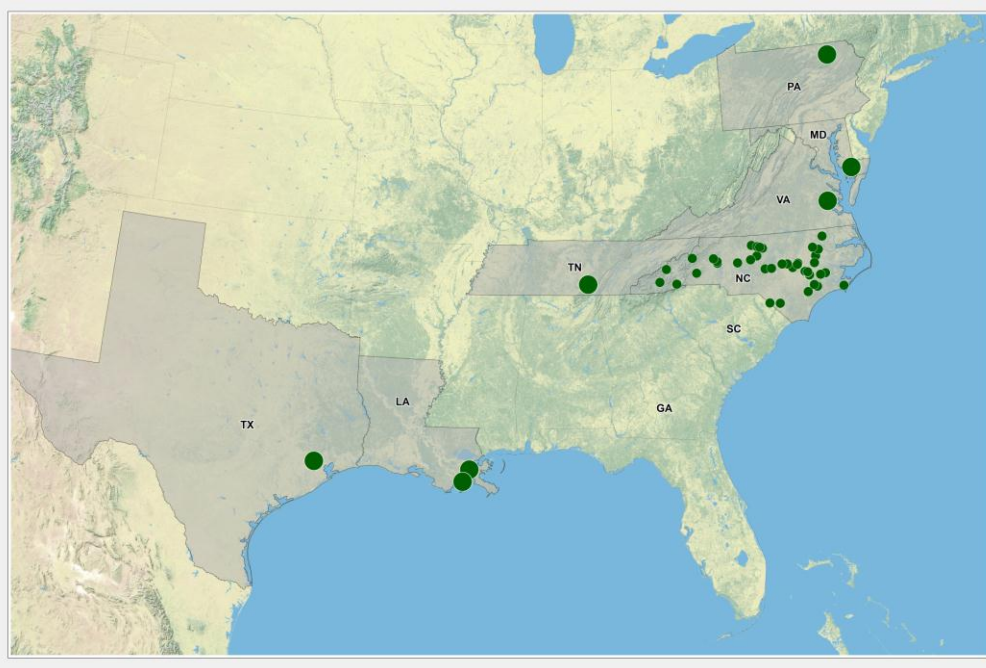


# **Private Mitigation Banking One Company's View**

**Raleigh, NC  
December 20, 2012**

# Who is Restoration Systems?

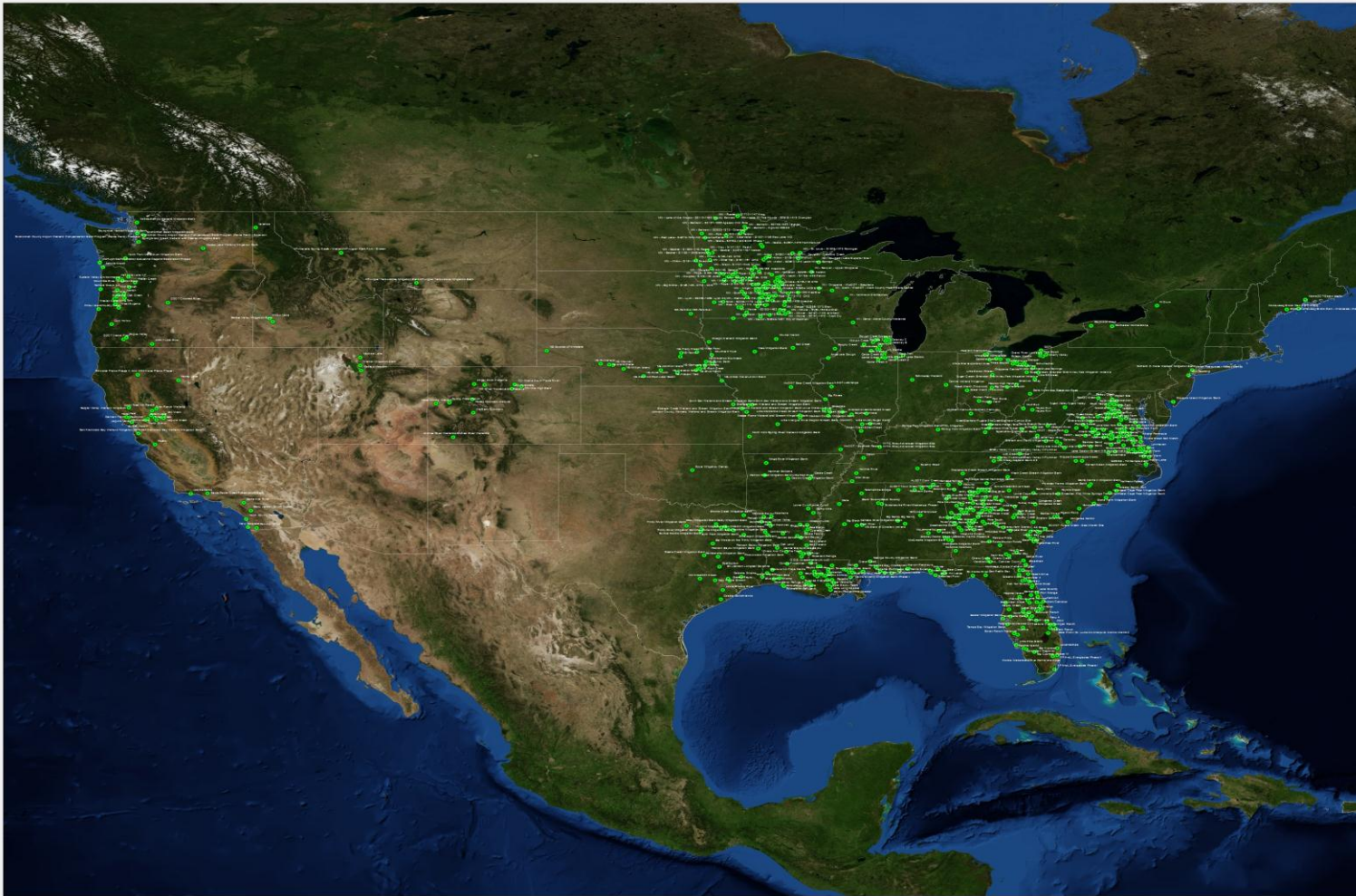
- Founded in 1998, North Carolina company, Raleigh HQ
- We sell a turnkey product: Mitigation
- Implemented 47 mitigation projects: wetland, stream, nutrient and buffer
- Eight different states and USACE Districts



# Restoration Systems Customers

- Departments of Transportation – NC, TN, TX
- Municipalities – Raleigh, Hillsborough, Siler City, Cary, Durham, etc.
- Energy and Power Utilities
- Airport Authorities
- Private Developers
- NCEEP

# Mitigation Banks in the US



Over 950



# Wetland & Stream Bank Approval

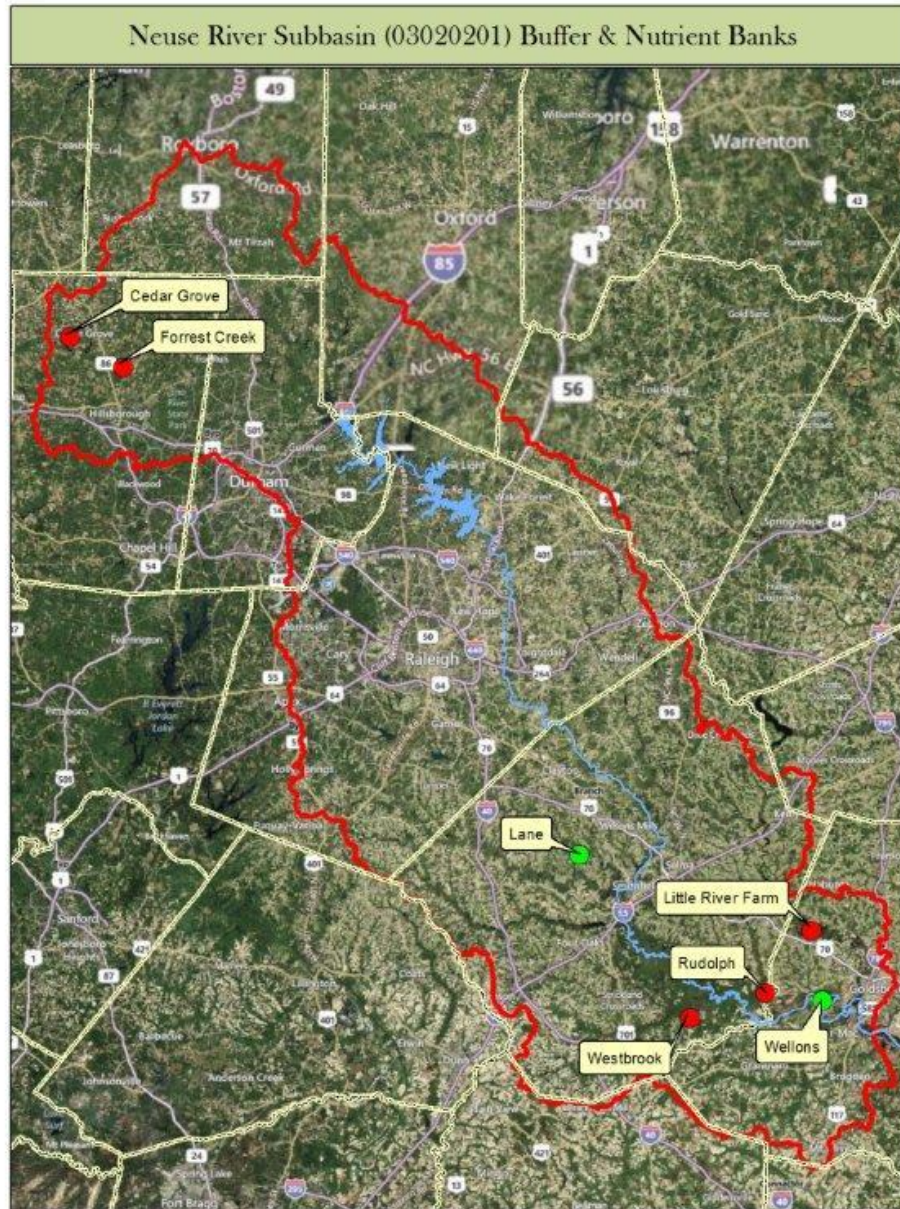
- Inter-Agency Review Team (IRT) convened
- IRT chaired by the USACE
- USEPA, USFWS, NMFS, NCDWQ, NCWRC **ALL** participate and comment
- Timeline: minimum 18 months to approval  
maximum ??? years

# Nutrient & Buffer Bank Approval

- NCDWQ only regulatory agency
- No role for the USACE
- Timeline: minimum 2 months  
maximum 4 months



# Neuse 01 Service Area



# Ecosystem Enhancement Program



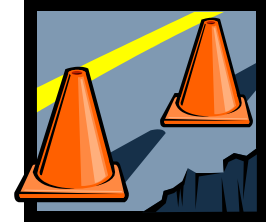
Homes



Churches



Schools



Parking  
Lots



Took all nutrient & buffer payments until 2008



# Why Does NC have the EEP?

- 1996 NCGA created the Wetlands Restoration Program
- NC's first attempt at an in-lieu fee mitigation program
- What happened?

# Scandal! \$58m = 10 acres

## THE SUNDAY News & OBSERVER

www.newsobserver.com

### Pay-and-pave system leaves wetlands behind



Was Newell, a hydrologist with Backwater Environmental, examines a ditch his company cut through this field near LaGrange to restore it to its wetlands state. Some critics of the Wetlands Restoration Program say private companies such as Restoration Systems, which hired Backwater, can do a better job of restoring the state's wetlands.

STAFF PHOTOS BY HARRY LYNCH

Restorations by state agency nominal after 5 years, millions in funding

By JAMES ELI SHIFFER  
STAFF WRITER

In the past five years, the state Department of Transportation and real estate developers have paved over at least 100 acres of wetlands and 16 miles of streams to make way for a wider Interstate 85 in



From Page One

THE NEWS & OBSERVER  
SUNDAY, JANUARY 20, 2002

12A

## Private companies struggle to compete with N.C. agency

By JAMES ELI SHIFFER  
STAFF WRITER

A fledgling industry in North Carolina thinks it's good business to restore swamps and crooks. But the "wetland banking" companies complain that they can't compete with the state's own swamp builder, the N.C. Wetlands Restoration Program.

The main reason: The state agency doesn't actually have to restore anything before it takes money from those who pay for destroying streams and wetlands. By contrast, private entrepreneurs have to construct expensive engineering projects before they can make money from developers who want a piece of their swamp. Then they can

sell a specific number of acres each year if the government determines the environment has been improved.

George A. Howard is an entrepreneur who helped create the 118-acre Barra Farms wetland bank in Cumberland County four years ago. "To go in and compete with an entity that frankly doesn't have to perform the work ahead of time is very difficult," said Howard, now with a Raleigh-based company, Restoration Systems LLC.

That's only one of the problems. The wetlands program acknowledges that the \$125-per-linear-foot fee charges developers who damage streams isn't enough to cover the cost of restoring them, so a profit-oriented

wetlands bank can't possibly match the price. Wetlands Restoration Program representatives also sit on the Mitigation Banking Review Team, a board that has to approve any restoration projects by the program's private-sector competitors.

For that reason, many of the companies have given up trying to do business in parts of 11 watersheds. Those are the areas in which the biggest buyer of wetlands and streams, the state Department of Transportation and the Wetlands Restoration Program, have signed an agreement that the bankers say gives the wetlands agency a virtual monopoly on DOT business.

Ronald E. Ferrell, manager of the Wetlands Restoration Program, said the arrangement is fair because government has more accountability than business.

"The reality is that the state of North Carolina and the Department of Environment and Natural Resources stand behind this program and are committed to making it work," Ferrell said. "With the private sector, you don't have that assurance. What's going to keep the private banker from walking away from this project?"

Over the past several months, DOT has insisted that it wants to do business with private companies as well as the Wetlands Restoration Program. On Jan. 9, the state

Board of Transportation's safety and emergency issues committee invited the N.C. Environmental Restoration Association, the trade group of wetlands bankers, to air its gripes.

The board asked DOT staff to investigate the concerns and issue a report within 90 days. Roger Sheats, DOT's deputy secretary for environment, planning and local government affairs, said his agency has made overtures to private mitigation bankers. "No mitigation options are of the table with DOT."

Staff writer James Eli Shiffer can be reached at 828-5791 or jshiffer@newsobserver.com



# USACE Wilmington District HQ

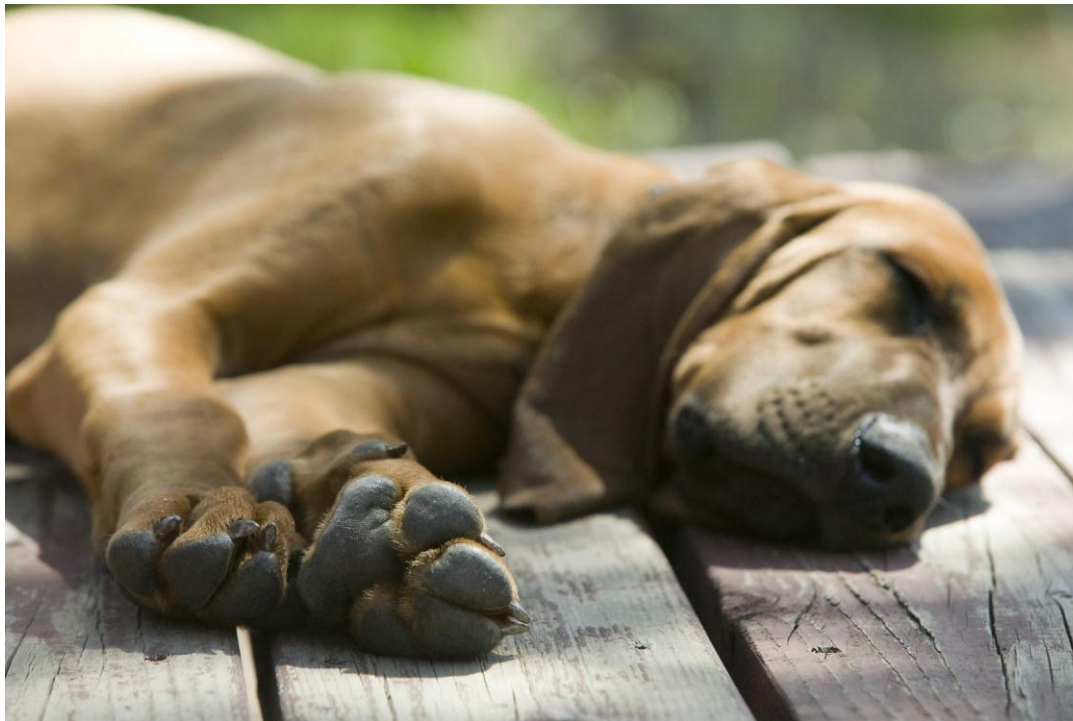
## The Watchdog

- The Colonel
- The Chief of Regulatory
- Chief's Staff



# USACE Wilmington District HQ

## More like the Hound Dog: Asleep



12A

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# Why EEP? It's a better name



## Ecosystem Enhancement Program

### Liaison Council



### "THE EEP ACCORD"

A Special Signing Ceremony involving:

U.S. Army Corps of Engineers  
N.C. Department of Transportation  
N.C. Department of Environment  
and Natural Resources

**July 22, 2003, 11 a.m.**  
**Hillsdale Park, Greensboro, N.C.**

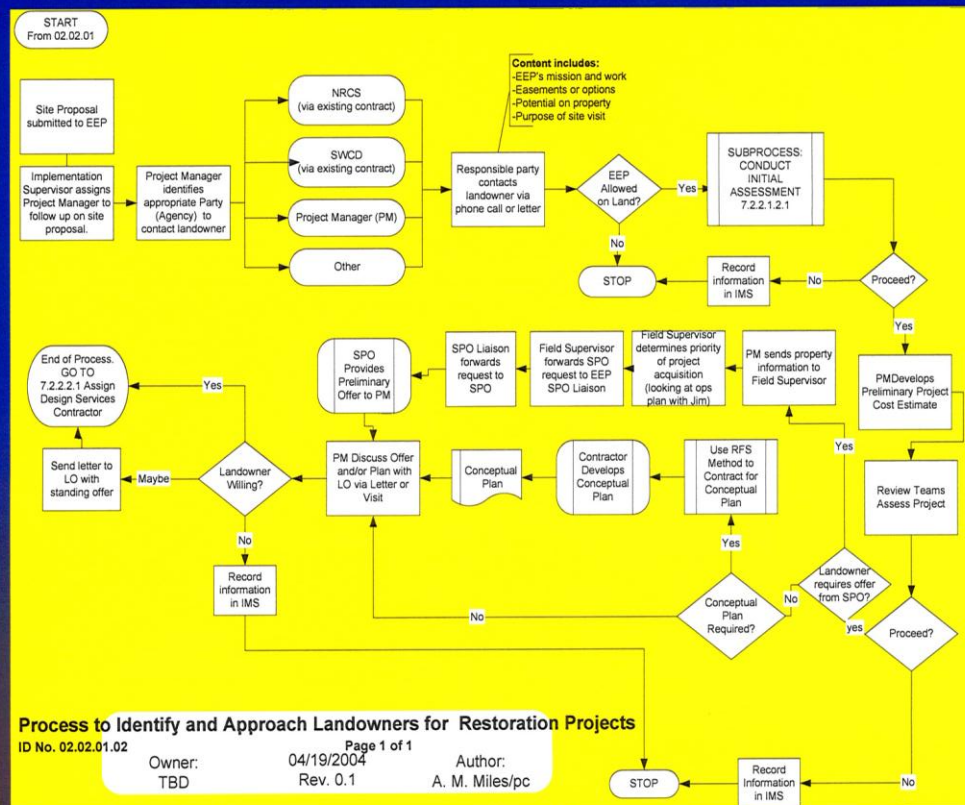


### NORTH CAROLINA



# Working with the EEP

## EEP in-house process for buying land



U.S. Army Corps  
of Engineers  
Wilmington District



# How EEP views Mitigation Banks

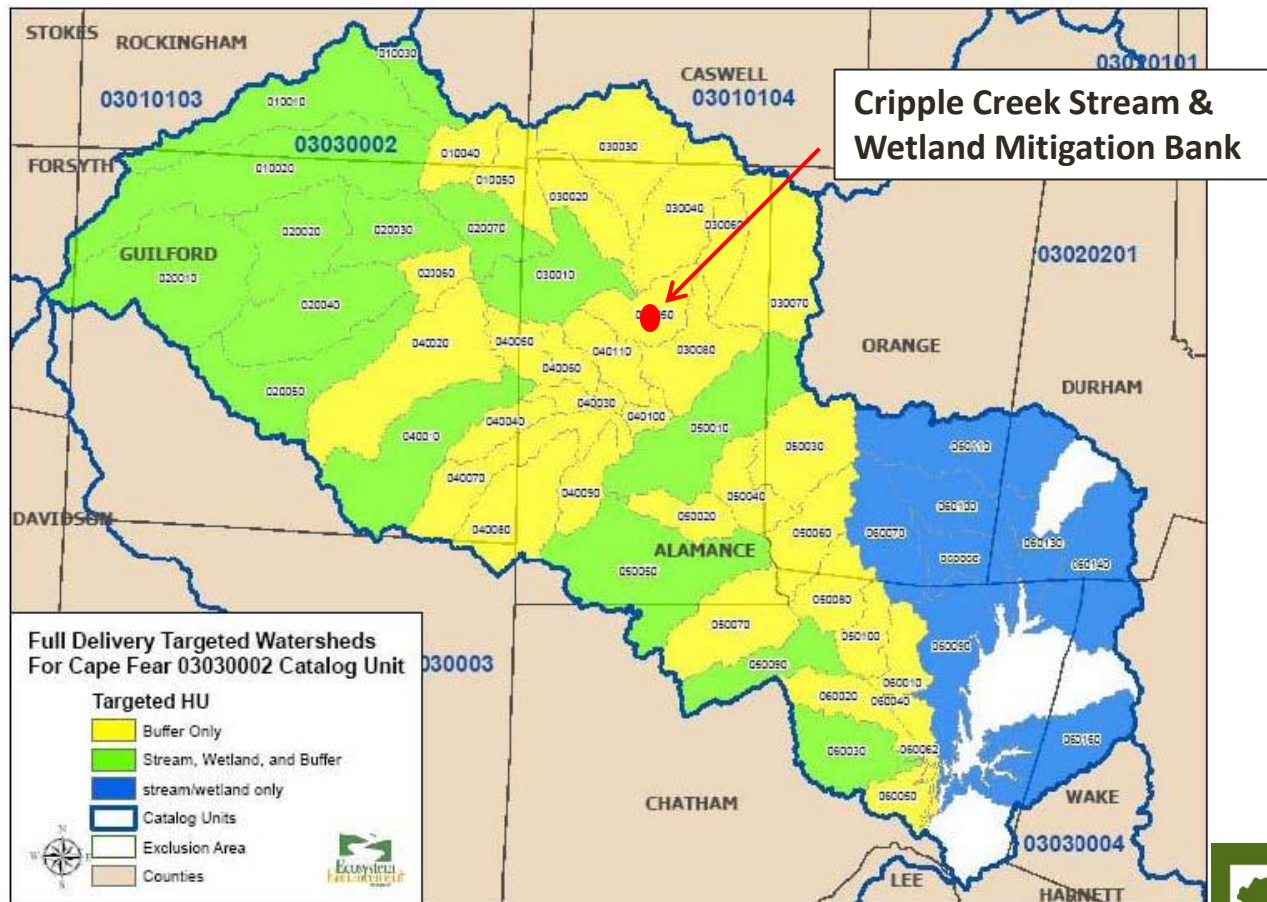




# EEP Targeted Local Watershed

Figure 1. MAP OF TARGETED LOCAL WATERSHEDS FOR STREAM, RIPARIAN WETLAND AND RIPARIAN BUFFER MITIGATION IN THE CAPE FEAR RIVER BASIN – CATALOGING UNIT 03030002

RFP #16-004357 11/16/2011

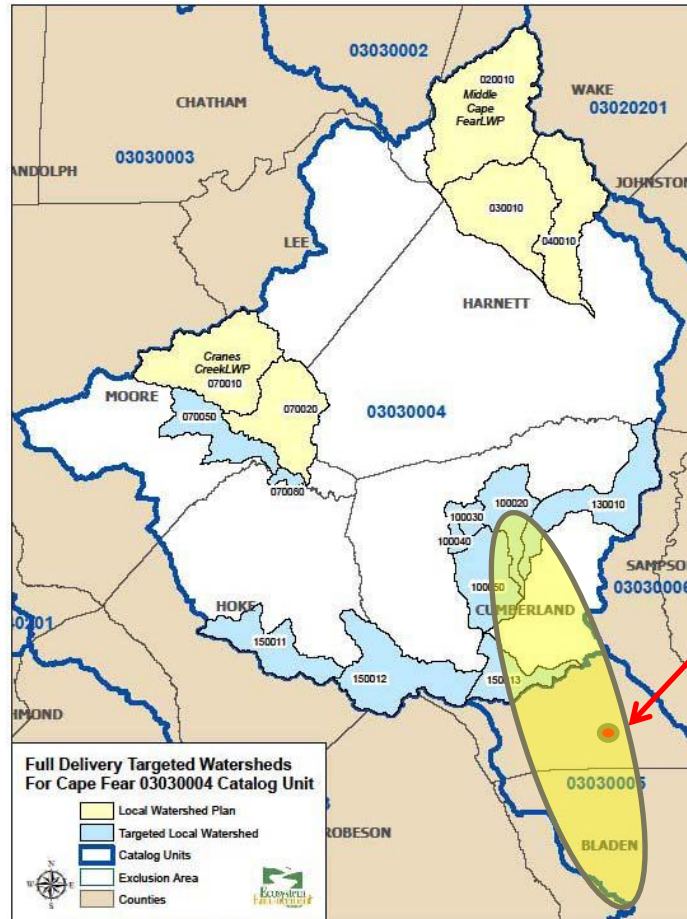


EEP misses the target – on purpose?



# EEP Targeted Local Watershed

Figure 1. MAP OF TARGETED LOCAL WATERSHEDS FOR NON- RIPARIAN WETLAND MITIGATION IN THE CAPE FEAR RIVER BASIN – CATALOGING UNIT 03030004



**Barra Farms Phase II Non-Riparian Mitigation Bank – portion of the approved service area.**

Twice??

# RS Prices vs. EEP Fees

- 146,892.63 lbs of Nitrogen sold— **ALL BELOW EEP FEE**
- 292,224.50 sqft of Riparian Buffer sold — **ALL BELOW EEP FEE**
- 7.2 Wetland Credits sold — **ALL BELOW EEP FEE**
- 1,184 Stream Credits sold — **ALL BELOW EEP FEE**

***Competition lowers prices!***



# How to Reform the EEP

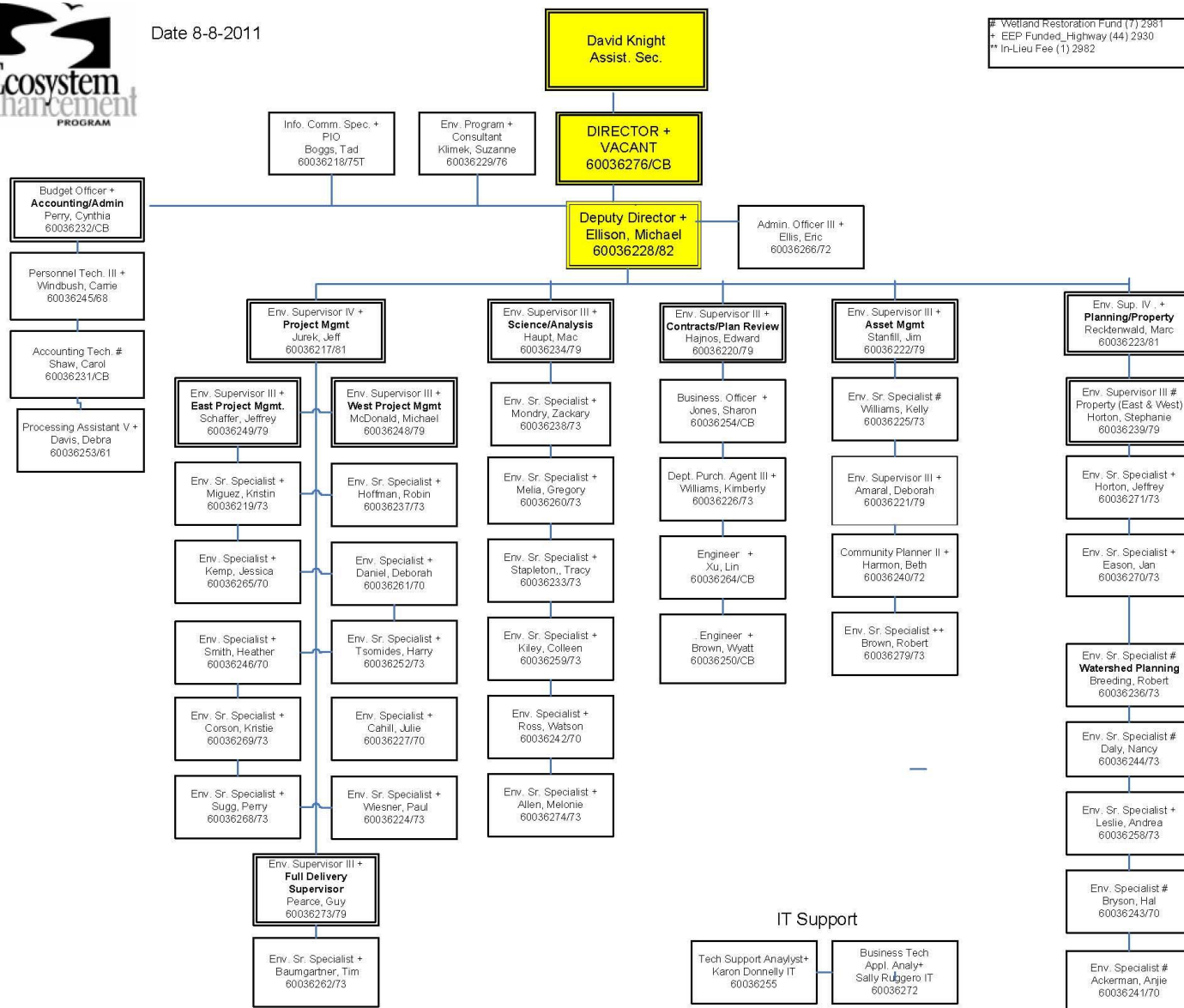


# Current EEP



Date 8-8-2011

# Wetland Restoration Fund (7) 2981  
\* EEP Funded Highway (44) 2930  
\*\* In-Lieu Fee (1) 2982





# EEP of the Future

